

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD ON  
JANUARY 11, 2005

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS  
54111 BROUGHTON ROAD, MACOMB, MI 48042

PRESENT: CHAIRMAN, BRIAN FLORENCE  
MEMBERS: EDWARD GALLAGHER  
TONY POPOVSKI  
DAWN SLOSSON  
VICTORIA SELVA

ABSENT: NONE

ALSO PRESENT: COLLEEN OCONNOR, TOWNSHIP ATTORNEY  
JIM VANTIFLIN, TOWNSHIP ENGINEER  
JEROME R. SCHMEISER, PLANNING CONSULTANT  
(Additional attendance record on file with Clerk)

Call Meeting to Order.

Chairman FLORENCE called the meeting to order at 7:02 P.M.

1. Roll Call.

Secretary SLOSSON called the Roll Call. All members present.

2. PLEDGE OF ALLEGIANCE.

3. Approval of Agenda Items. *(with any corrections)*  
*Note: All fees have been received and all property notices were notified by mail*

**MOTION by GALLAGHER seconded by SLOSSON to approve the agenda as presented.**

**MOTION carried.**

4. Approval of the previous meeting minutes:

**MOTION by POPOVSKI seconded by SELVA to approve the meeting minutes of December 15, 2004 as presented.**

**MOTION carried.**

PURPOSE OF HEARING:

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To consider the requests for variance(s) of Zoning Ordinance No. 10 for the following:

Agenda Number/Petitioner/ Permanent Parcel No.	Zoning Ordinance Section No.
(5) MCS Land Development Permanent Parcel No. 08-17-201-002	Section 10.0704(A)(3)(b)&(c)
(6) Elder Automotive Macomb Land Company Permanent Parcel No. 08-33-352-032	Section 10.1805(I) 10.1805(G) 10.1805(G) 10.1805(G)
(7) RCM Properties, LLC Permanent Parcel No. 08-35-454-010	Section 10.0323(A)(10)(L)

5. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;  
Permission to vary:  
Section 10.0704(A)(3)(b) and (c) Request to reduce width and depth of a lot.  
Located on South side of 24 Mile Road, East of Romeo Plank Road; Section 17;  
MSC Land Development, Petitioner. Permanent Parcel No. 08-17-201-002.

Chairman FLORENCE read the findings and recommendations of January 4, 2005. They are as follows:

This matter was considered by the Zoning Board of Appeals at its meeting of November 9, 2004. Action was taken to table the matter until the Board meeting of January 11, 2005 to consider additional information.

The petitioner is requesting that lot 175 of the proposed Bridgewater Estates Condominiums be allowed with a depth less than 120' as required by the zoning ordinance. The lot is planned on a street that runs approximately parallel to the Clinton River with a curve in the proposed road at approximate location of the lot in question.

The lot in question is a lot in the proposed Bridgewater Estates Site Condominiums. On October 27, 2004, the Township approved the preliminary plan for Bridgewater Estates indicating that the width of lot 175 would be approximately 151'. If the variance is approved, the petitioner could then create two lots out of the approved lot 175. The south 70' of the current lot 175 will meet the width and depth requirements of the zoning ordinance. However, the north 81.34' of the current lot 175 would not meet the north side lot line depth requirement but would meet the lot depth dimension as measured from the front property line center line to the rear property line center line. The curve in the road due to the drain location prevents the petitioner from meeting the north side lot line depth.

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**RECOMMENDATION:**

It is recommended that the variance request be granted since the depth of the lot in question cannot reasonably be changed to meet the Zoning Ordinance requirements because of the location of the river in relationship to the proposed street dictates the shape and dimension of the lot.

This recommendation is made with the understanding that the petitioner will provide a footprint of the proposed residential structure to be placed on lot 175 to ensure that no future setback variances will be necessary.

Nancy Kolinski, representative, was in attendance and presented a footprint of a building envelop for the proposed lot 175.

Jerome R. Schmeiser, Planning Consultant, presented the proposed footprint to the members as explained to him by Ms. Kolinski and as recommended by the Planning Consultant.

Public Portion: None.

**MOTON by GALLAGHER seconded by SLOSSON to close the public portion.  
MOTION carried.**

**The following resolution was offered by SELVA and seconded by GALLAGHER:**

**Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;**

**Now, therefore, be it resolved that pursuant to the action of the Board that Section 10.0704(A)(3)(b) and (c)-Request to reduce width and depth of a lot; Located on the south side of 24 Mile Road, east of Romeo Plank Road; Section 17; MSC Land Development, Petitioner. Permanent Parcel No. 08-17-201-002. The variance was granted based on the location of the river can not be moved and it dedicates the size and shape of the lot with the stipulation that the proposed footprint drawing is added into the plan for the condominium. In addition the footprint must indicate that there is a perpendicular 25 foot front setback from the front property line as indicated on the plan as presented by the petitioner and Planning Consultant. The plan to become part of the record.**

**MOTION carried.**

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6. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;  
Permission to vary section:  
10.1805(I)-Request permission to erect 3 ground signs. One is permitted by the zoning ordinance.  
10.1805G-Request to eliminate 6' wall on portions of the site.  
10.1805G-Request to reduce 50' greenbelt to 8' on portions of the site.  
10.1805G-Request to eliminate 50' greenbelt on portion of the site.  
Located on North side of Hall Road, approximately 500 feet east of Romeo Plank Road; Section 33; Elder Automotive Macomb Land Company, Petitioner.  
Permanent Parcel Nos. 08-33-352-032, 08-33-352-034, 08-33-353-003 and 08-33-353-004

Chairman FLORENCE read the findings and recommendations of January 4, 2005. They are as follows:

On November 23, 2004, the Board of Appeals considered this item and at the petitioner's request, tabled this matter to January 11, 2005, to provide additional information.

The petitioner is requesting variances from the zoning ordinance for the development of a automotive dealership on the above described property.

The variances involve three signs instead of one as allowed and walls and greenbelts where the property abuts residential development. A communication dated December 28, 2004, from Laura McElheron, the architect representing the petitioner, provides additional information in a 10 point review of the specifics of the request.

The petitioner is requesting permission to erect three ground signs for a total 64 square feet, instead of one sign of 64 square feet as allowed by the zoning ordinance. The balance of the variances requested involve the unusual existence of a wetland and the Luchtman Drain running along the north and east property lines.

**RECOMMENDATION:**

It is recommended that the variances involving the walls and greenbelts be approved with the understanding that the petitioner will satisfy the Macomb Township Engineering Department with respect to construction standards.

With respect to the variance request for the sign(s), it is recommended that the request be granted with the following conditions:

- a. The total number of ground signs on subject parcel shall not exceed three.
- b. That the total combined area of the three (3) ground signs permitted on site shall be limited to 64 sq. ft.

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Bob Kirk, representative, for petitioner stated that they had submitted the additional information as had been previously requested and would thoroughly go through them on the presentation boards.

Laura McElheron, representative of AZD, briefly reviewed the points outlined in the explanation of variances requested by using diagram boards and what would be substituted.

She further stated the height of the wall had been determined with the Engineering Department (Spalding DeDecker and Associates) by measuring the height of a light on a Land Rover, which is 38" to the top of the light. The proposed screening wall is 42".

Chairman FLORENCE asked if they had obtained the necessary permits from MDEQ for the building being constructed within the wetland.

Nabeel from Nowak and Fraus, stated they were going to mitigate on site and the wetland would then be located in the back of the site adjacent to the Luchtman Drain.

Member GALLAGHER questioned the setting of a precedence should the Board decide to grant the variance for the signage.

Public Portion:

Mike and Matt Giroux, asked if there was going to be a retention basin on the west side of the property and if there would be parking on that portion of the property.

Discussion was held on the dirt stock pile that was created from the car wash and asked if they would be using that to fill in there site.

Nabeel stated they have to balance their own site and use only the dirt from their site. The project would not be using the dirt pile as mentioned.

**MOTION by SELVA seconded by SLOSSON to close the public portion.  
MOTION carried.**

**The following resolution was offered by GALLAGHER and seconded by SLOSSON:**

**Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;**

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Now, therefore, be it resolved that pursuant to the action of the Board that Section 10.1805(I)-Request permission to erect 3 ground signs. One is permitted by the Zoning Ordinance; Located on the north side of Hall Road, approximately 500 feet east of Romeo Plank Road; Section 33; Elder Automotive Macomb Land Company, Petitioner. Permanent Parcel No. 08-33-352-032, 08-33-352-034, 08-33-353-003 and 08-33-353-004. The variance was granted that the total number of signs on subject parcel (proposed auto dealership site) shall not exceed three and that the total combined area of the three (3) ground signs permitted on site shall be limited to 64 square feet.

**MOTION carried.**

The following resolution was offered by GALLAGHER and seconded by SELVA:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved that pursuant to the action of the Board that Section 10.1805(G)-Request to eliminate 6 foot wall on portions of the site; Located on the north side of Hall Road, approximately 500 feet east of Romeo Plank Road; Section 33; Elder Automotive Macomb Land Company, Petitioner. Permanent Parcel No. 08-33-352-032, 08-33-352-034, 08-33-353-003 and 08-33-353-004. The variance was granted based on the drawings dated December 28, 2004. The wall will be reduced to 42". The drawing to become part of the record.

**MOTION carried.**

The following resolution was offered by GALLAGHER and seconded by POPOVSKI:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

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Now, therefore, be it resolved that pursuant to the action of the Board that Section 10.1805(G)-Request to reduce 50 foot greenbelt to 8 feet on portions of the site and to eliminate 50 foot greenbelt on portions of the site; Located on the north side of Hall Road, approximately 500 feet east of Romeo Plank Road; Section 33; Elder Automotive Macomb Land Company, Petitioner. Permanent Parcel No. 08-33-352-032, 08-33-352-034, 08-33-353-003 and 08-33-353-004. The variance was granted according to the drawings dated December 28, 2004. The drawing to become part of the record.

**MOTION carried.**

7. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;  
Permission to vary:  
Section: 10.0323(A)(10)(L)-Request to reduce the curb offset from 4' to 0' along the side lot lines.  
Located on the Northwest corner of Hall Road and Deneweth Road; Section 35;  
RCM Properties, LLC, Petitioner. Permanent Parcel No. 08-35-454-010.

Chairman FLORENCE read the findings and recommendations of January 4, 2005. They are as follows:

The petitioner is requesting a variance be granted for the side lot line setbacks so that he may split a current parcel. On August 5, 2002, the Planning Commission approved a site plan involving two buildings constructed on the property in question. A single drive provided access to the parking lot which serves both buildings.

The petitioner's request indicates that if the properties are allowed to be split, that the dimensional requirements of the zoning district of C-1 will be met. Further, a cross access agreement will be recorded providing the use of the single drive from Hall Road to both parking areas.

**RECOMMENDATION:**

It is recommended that the variance be denied for the following reasons:

1. Compliance with the strict letter of the setback requirement would not unreasonably prevent the ownership from using the property as zoned. Other structures in commercial/office developments planned in Macomb Township will be required to comply with the same setback requirements which is evidence that the proper driveway setback would not be unnecessarily burdensome.

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2. The granting of a variance as requested would give to the applicant an advantage or benefit not received by any other property owners in commercial/office developments in Macomb Township. The other owners are or will be required to comply with the 4' driveway setback requirement. As a result the other property owners do not have the opportunity to make use of 4' in each of the access driveways.

There is nothing unusual about the parcel in question that sets it apart from other parcels in area or in Macomb Township. There is nothing to prevent any part of the driveway setback from being maintained 4' from the property line. For example, there are no significant grade differences or natural feature such as a stream or wetland to prevent full use of the parcel according to the ordinance as written.

Justin Reynolds, representative, was in attendance and stated that everything on the site is currently existing under the original site plan and engineering approval. The main intention of splitting the property would allow the property owner to sell off the second building that has been constructed on the site. That is the main intention at this time. Lastly, the site is allowed another split as well.

Chairman FLORENCE asked what the original intention of the second building was.

Justin Reynolds stated the original intention was to keep it as one parcel. The property owner is currently in the other building and was going to lease out but now wants to sell of the entire parcel should the split be created.

Member GALLAGHER asked if the building could have been built on the parcel should it have been a separate parcel to begin with.

Jerome R. Schmeiser, Planning Consultant, stated that it could have been built. He further stated that he believes a Consent Judgment will be entered into for review.

Justin Reynolds stated that it was originally one parcel with the thoughts he would remain ownership of the entire parcel and is now looking at the potential of selling off the secondary building, which is the reason for the split. If this would have been done from the beginning, things would have been laid out differently. Since everything is currently existing its kind of hard to change the driveway and as encouraged by the Planner, you don't like multiple accesses to major roads or secondary roads, so in keeping with that, this would eliminate another access point to one of the roadways.

Member GALLAGHER asked if there was objection to that driveway being extended out to Deneweth.



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Jerome R. Schmeiser, Planning Consultant, stated that an access drive to Deneweth would not be recommended.

Jim VanTiflen, Township Engineer, indicated that Deneweth is a private road.

Public Portion: None.

**MOTION by GALLAGHER seconded by SLOSSON to close the public portion.**

**MOTION carried.**

**MOTION by GALLAGHER seconded by SELVA to deny Section 10.0323(A)(10)(L)-Request to reduce to curb offset from 4 feet to 0 feet along the side lot lines; Located on the northwest corner of Hall Road and Deneweth Road; Section 35; RCM Properties, Petitioner. Permanent Parcel No. 08-35-454-010. The variance was denied since there has been no hardship shown, there is nothing unusual about the property that would require this variance, it deprives other people with the same situation, granting this petitioner special privileges if this variance was granted. Other people are not going to get. There's nothing unusual about this parcel that requires that variance be granted and no hardship has been shown. The variance was also denied based on the Planning Consultants recommendations as follows:**

- 1. Compliance with the strict letter of the setback requirement would not unreasonably prevent the ownership from using the property as zoned. Other structures in commercial/office developments planned in Macomb Township will be required to comply with the same setback requirements, which is evidence that the proper driveway setback would not be unnecessarily burdensome.**
- 2. The granting of a variance as requested would give to the applicant an advantage or benefit not received by any other property owners in commercial/office developments in Macomb Township. The other owners are or will be required to comply with the 4' driveway setback requirement. As a result the other property owners do not have the opportunity to make use of 4' in each of the access driveways.**

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**There is nothing unusual about the parcel in question that sets it apart from other parcels in area or in Macomb Township. There is nothing to prevent any part of the driveway setback from being maintained 4' from the property line. For example, there are no significant grade differences or natural feature such as a stream or wetland to prevent full use of the parcel according to the ordinance as written.**

**Chairman FLORENCE included that there was no practical difficulty in that if the property were to be split off, it is buildable as is and the property could have been built with that in mind and it could have been split off with all of that as part of the understanding.**

**MOTION carried.**

8. OLD BUSINESS

None.

9. NEW BUSINESS

None.

10. PLANNING CONSULTANTS COMMENTS

Jerome R. Schmeiser, Planning Consultant, stated the next regular meeting was scheduled for March 8, 2005.

11. MOTION TO RECEIVE AND FILE ALL CORRESPONDENCE IN CONNECTION WITH THIS AGENDA

**MOTION by GALLAGHER seconded by SELVA to receive and file all correspondence.**

**MOTION carried.**

ADJOURNMENT

**MOTION by POPOVSKI seconded by SELVA to adjourn the meeting at 7:53 P.M.**

**MOTION carried.**

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Respectfully submitted,

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Brian Florence, Chairman

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Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary

BK